

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**IN RE:
NIASPAN ANTITRUST LITIGATION**

MDL NO. 2460

**THIS DOCUMENT RELATES TO:
ALL ACTIONS**

MASTER FILE NO. 13-MD-2460

ORDER

AND NOW, this 23rd day of May, 2018, upon consideration of the letter brief filed by plaintiffs on April 13, 2018 (Document No. 530), requesting that the Court bar defendants from using certain testimony by Paul Bisaro, former President and Chief Operating Officer of defendant Barr Pharmaceuticals, LLC (“Barr”), regarding whether Barr would have launched a generic Niaspan “at risk,” as an improper use of the attorney-client privilege as both a “sword” and a “shield,” the letter brief filed by defendants Barr, Teva Pharmaceuticals USA, Inc., Teva Pharmaceutical Industries, Ltd., Teva Women’s Health, Inc., and Teva Sales and Marketing, Inc. (together, “Teva”), on April 16, 2018 (Document No. 532), in opposition to plaintiffs’ request, and the supplemental letter brief filed by plaintiffs on May 18, 2018 (Document No. 540), following a telephone conference with the parties, through counsel, on May 14, 2018, for the reasons set forth in the accompanying Memorandum dated May 23, 2018, **IT IS ORDERED** that plaintiffs’ request that Paul Bisaro’s testimony be barred **IS DENIED WITHOUT PREJUDICE** to plaintiffs’ right to renew their request or file a motion *in limine* if warranted by the evidence presented in motions for summary judgment or at trial.

BY THE COURT:

/s/ **Hon. Jan E. DuBois**

DuBOIS, JAN E., J.